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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,300	09/28/2001	Patrick E. McCallister	45105/KMO/C944	3920
23363	7590	08/30/2004		
CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068				
			EXAMINER WEINSTEIN, STEVEN L	
			ART UNIT 1761	PAPER NUMBER

DATE MAILED: 08/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/965,300	Applicant(s) MCCALLISTER ET AL.	
	Examiner Steven L. Weinstein	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/3/03 & 5/19/04
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 14, 15, 22-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Applicants' response filed 5/19/04 to the Restriction Requirement mailed 4/27/04 has been received. The claims of Group I have been elected without traverse. Accordingly, claims 14, 15, and 22-27 are withdrawn from further consideration as being drawn to a non-elected invention and an action on the merits of claims 1-13 and 16-21 follows.

The request for drawing correction filed 11/03/03 has been approved.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-13 and 16-21 rejected under 35 U.S.C. 103(a) as being unpatentable over Natt et al (Ep '643) in view of Yamamoto et al ('088), further in view of Singleton (GB. '438), Tokunaga (Jp '648), Ono et al (Jp '248), Taniguchi (Jp '948), Otawara (Jp. '068), Nishioka et al (Jp '653), Matsuno et al (Jp '738), and Blackwell et al. ('811) for the reasons fully and clearly given in the Office action mailed 6/5/03, further in view if Rubbright et al (EP 954981), Oh (6,217,918), Shaikh et al (6,012,628) and Fritz (5,423,453), further in view of Dunden (4,711,356), Proffitt et al (5,012,928), and Littejohn et al (5,377,860).

Claim 1 now recites a microwaveable container comprising a single bowl. This recitation reads on Natt et al. That is, Natt et al discloses a pasta product comprising a dried pasta product which product is contained in a microwaveable container comprising a single bowl (e.g. 17). That is, the pasta is in a single bowl. Natt et al also happens to

disclose a second bowl for containing other food, but claim 1 does not exclude a second bowl containing a different product. Claim 1 also now recites three additional structural elements, all of which are conventional. Claim 1 recites that the bowl has a lip extending around the bowl in a generally perpendicular relation to a top of the wall. Natt et al discloses a rim (e.g. 2 or 18), which is generally perpendicular to the sidewall. In any case, the art is replete with further examples of lips (also called flanges, or rims) such as Ono et al (Jp '068), Taniguchi (Jp '948), Otawara et al. (Jp'068), Matsuno et al (Jp '738), Shaikh et al (6,012,628), Rubbright et al, Oh et al (617, 918) and Fritz (5423,453). Note that Shaikh et al, Oh et al and Fritz all provide perpendicular rims for rigidity and handling; the latter being applicant's disclosed reasons for providing the rim.

Claim 1 also further recites that the outer wall includes two generally curved side walls and two generally straight end walls. Natt et al discloses circular or oval designs. In fact, as noted in the last Office action, the art taken as a whole discloses curved walls or the absence of sharp corners enhances uniform microwave heating. Singleton, e.g. discloses that round shapes devoid of angular corners should be employed in tray structure and employs, as an example, straight sides meeting arcuate end portions. Thus, the particular curve/curve, or curve/straight arrangement for the container is seen to have been an obvious matter of design as long as there are no sharp corners. In any case, Shaikh et al specifically discloses a microwaveable container with curved side walls and straight end walls, and to modify Natt et al and the combination and substitute one conventional design for another conventional design would have been obvious. Note, too, that Oh et al discloses that sharp edges contribute to boil over which is

applicant's concern as well. Finally, claim 1 now recites, that a protrusion extends outward from the generally straight end walls below the lip. As disclosed, this feature is a conventional stacking lug commonly used to allow nesting or stacking of containers while also allow ease of denesting. Natt et al is silent in this regard. Note that Ono et al, previously relied upon, does appear to show a stacking lug in fig 2. In any case Dunden (element 33), Proffitt et al (element 28) and LittleJohn et al (element 39) all teach it was notoriously old to provide containers with stacking lugs so that they can be nested when empty and easily separated and to modify Natt et al and the combination and provide stacking lugs for their art recognized and applicants intended function is seen to have been obvious.

Finally, new claims 16-21 recite that the wall includes a rounded corner, that the wall has two straight regions at different angles, that one angle is greater than the other and the specific range. Natt et al discloses a bowl whose walls have rounded corners and whose walls have two separate portions. Natt et al shows an outwardly straight portion that then becomes an upper curved portion extending back toward the axis of symmetry relative to the lower portion. That applicants are not the first to provide a microwave bowl with sidewalls having two straight regions each extending at an angle to the vertical with the upper straight portion extending at a lesser angle is clearly evidenced by Rubbright et al and Oh et al. To modify the combination and substitute one conventional microwave wall design for another conventional microwave wall design is seen to have been an obvious, matter of choice and/or design. See figure 3 in this regard, which also appears to show stacking lugs under rim 19. The particular

angles and the space created by the lugs are seen to have been obvious matters of choice and/or design.

All of applicant's remarks filed 11/3/03 have been fully and carefully considered but are either moot in view of the new ground of rejection or have not been found to be convincing.

It is urged that Natt et al does not teach a single bowl. This urging has been addressed above. Not only are the claims comprising claims open to other elements, Natt et al does teach that the pasta is in a single bowl. The other bowl is just for additives to be added to the pasta. Also note the art applied is replete with examples of only single bowls with no additional additive receptacles. The urgings concerning straight wall regions, straight walls and curved walls, the protrusion, the flange etc. are moot in view of the new ground of rejection. As for the urging that Natt et al would teach away from having stacking lugs because of the additional additive receptacle, this urging is not convincing since the stacking lugs are conventionally employed to prevent locked nesting of empty receptacles before they are filled and sealed in the manufacturing process which be required of Natt et al as well.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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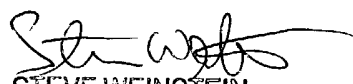
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven L Weinstein whose telephone number is (571) 272-1410. The examiner can normally be reached on Monday-Friday 7:00am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S. Weinstein/af


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PRIMARY EXAMINER
1761 8/27/04

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